

DATE: November 24, 1998
CASE No. 1998-ARN-2

In the Matter of
ADMINISTRATOR, U.S. DEPARTMENT
OF LABOR, WAGE AND HOUR DIVISION,
Complainant

v.

PETERSON PARK HEALTH CARE CENTER,
Respondent

DECISION AND ORDER APPROVING
SETTLEMENT AGREEMENT AND CONSENT FINDINGS

These proceedings arise under the Immigration Nursing Relief Act of 1989 as amended, Act of Dec. 18, 1989, Pub. L. 101-238, 103 Stat. 2099 [8 U.S.C. §§ 1101(a)(15)(H)(I)(a), 1182(m), hereinafter "the Act"] and 20 C.F.R. Part 655 with respect to Peterson's request for a hearing involving alleged violations of the provisions of § 1182(m) of the Act and the assessment of a civil money penalty as referenced in the Administrator's Determination Letter. Jurisdiction over this matter is vested in the Office of the Administrative Law Judges by INA § 212(m)(2)(E)(iii), 8 U.S.C. § 1182(m)(2)(E)(iii), 20 C.F.R. §§ 655.420-440.

On October 29, 1998, the parties submitted a Settlement Agreement and Consent Findings for approval by the undersigned, which are attached hereto and incorporated herein. I have reviewed the agreement of the parties and I enter the following findings:

1. The agreement appears to be fair and reasonable on its face and it further appears that it effectuates the purposes and policies of the statute under which it arises;
2. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits;
3. By agreement of the parties, the entire record on which the Decision and Order is based, consists solely of the Determination Letter issued by the Administrator, which constitutes the complaint herein, and the Settlement Agreement and Consent Findings, which has been attached hereto and incorporated herein; and

4. The parties are hereby deemed to waive any further procedural steps before the undersigned or the Secretary of Labor, as appropriate, regarding the matters which are the subject of their agreement.

Based on the foregoing,

IT IS ORDERED that:

1. The provisions of the Settlement Agreement and Consent Findings, are hereby approved, as the complete document is attached hereto and incorporated herein.
2. Within 15 days from the date this Settlement Agreement is signed by both parties, Peterson Park Health Care Center ("Peterson") shall pay to the Administrator the sum of \$2,500.00, which represents payment in full of the civil money penalties assessed in the Administrator's Determination Letter.
3. Within 15 days from the date this Settlement Agreement is signed by both parties, Peterson shall pay to the Administrator the amount of \$8,793.12, representing back wages to be paid to the individuals listed in Appendix A. The remaining back wage amounts, totaling \$89,198.19, shall be paid to the Administrator for forwarding to employees listed in Appendix A in eleven quarterly installments over a period of 33 months from the date this decree becomes final, on or before the dates and in the amounts set forth in the same installment schedule outlined in Appendix A attached.
4. The provisions of this Settlement Agreement relative to the payment of back wages and civil money penalties shall be deemed satisfied when Peterson delivers to the Administrator separate checks for the payment of civil money penalties made out to Wage-Hour Division/U.S. Department of Labor in the amount equal to the civil money penalties designated in paragraph 6 above, and for each net back wage installment made out to the employee or Wage-Hour Division/U.S. Department of Labor (e.g., John Doe or Wage-Hour Division/U.S. Department of Labor), in the amount equal to the gross back wages designated in paragraph 5 above, minus legally required deductions such as federal, state and local taxes and FICA. Peterson also will provide the Administrator with the most recent address, and social security number in its files for each employee indicated in Appendix A and a schedule reflecting the gross amount of each back wage payment and the legal deductions taken from each individual's gross wage amount. Net back wages shall be paid to the Administrator for each employee over the entire installment period. Any sums not distributed to the employees named herein, or to their personal representatives after three years, because of inability to locate the proper persons or because of such persons' refusal to accept such sums shall be deposited with the Treasurer of the United States as miscellaneous receipts.

5. This Settlement Agreement resolves all issues raised by the Administrator's Determination Letter of February 26, 1998 with respect to Peterson.
6. This constitutes the final DECISION AND ORDER of the undersigned with regard to this matter.

THOMAS F. PHALEN, JR.
Administrative Law Judge

**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

<i>CASE NO.</i>	<i>98-ARN-2</i>
<i>TITLE OF DOCUMENT:</i>	<i>Settlement Agreement and Consent Findings</i>
<i>DATE OF DOCUMENT:</i>	<i>October 29, 1998</i>

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